



07 April 2016

HOUSE OF COMMONS

LONDON SW1A 0AA

Mr Alex Chisholm, CEO
Competition and Markets Authority
Victoria House
27-63 Southampton Row
London WC1B 4AD

Dear Mr Chisholm,

CMA Energy Market Investigation

I write to you in response to the Provisional Decision on Remedies, published on 10 March 2016, following the Competition and Market Authority's two year investigation into the energy market.

During my time as Shadow Secretary of State for Energy and Climate Change I was, and I continue to be, critical of the way in which the 'big six' energy companies conduct domestic energy pricing, and the capability of Ofgem to regulate effectively. The Government's decision to refer the energy market for a CMA investigation, and the subsequent findings in this report, have vindicated my longstanding assertion that the large energy companies were over-charging customers in a broken market.

Having read the Provisional Decision on Remedies published last month, I continue to have serious concerns about the pricing regime within the energy market. While I welcome some of the measures proposed by the CMA, I do not believe that these go anywhere near far enough to fix what is an endemic problem affecting millions of bill-payers across the country.

A price cap on prepayment meters is a sensible and necessary step to ensure that the four million homes who pay for their energy in this way are no longer penalised. However, prepayment meter households make up only 16 per cent of consumers nationwide.

Working for Don Valley

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As your own publication acknowledges, 70 per cent of the big six's customers – the vast majority of households in this country – are still on the default standard variable tariff (SVT), for whom costs have risen steeply. These customers, as noted in the report, are paying some £300 more a year than if they swapped on to a cheaper tariff.

It is not enough to propose that with better marketing exposure, these customers may be able to find a better deal. The onus remains upon the consumer to seek out the cheapest rate, rather than requiring energy companies to charge appropriate prices, including passing on savings made by lower wholesale prices.

The proposed customer database, giving firms access to contact their rivals' longer-term customers, does nothing to address this fundamental idiosyncrasy within the market. Rather, it will serve to exacerbate it.

The evidence from the market share of the Big Six, shows that they remain overwhelmingly dominant in the regions they occupied pre-privatisation, with poor market penetration beyond their "home region". The reality is that they inherited a sticky base of longstanding customers, a picture reinforced by the high proportion of customers who have never switched supplier.

Their failure to grow customers beyond their strongholds suggests that they still behave like regional monopolies and not like firms in a truly competitive market. This is further evidenced by the commonplace practice of the major energy firms to charge loyal customers more for their energy than new ones. In a truly competitive market this simply would not occur.

For most customers – 7 in 10 – the only difference, under the new proposals, will be that their information will be shared with companies with whom they have no relationship. By maintaining that paying over the odds for energy should be tackled by the consumer, the CMA has shrugged off its responsibility to address an ongoing market failure.

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In respect of the CMA's proposed course of action, I believe that trying to use market mechanisms, instead of Government regulation, to tackle a market failure, stems directly from the revised terms of reference provided by the Secretary of State in July 2015. In his foreword to the consultation document, Sajid Javid clearly states:
"Competition should be used as a serious alternative to regulation. Well-functioning markets should not need Government intervention. If the market is not working properly then the first test should be whether competition tools could be used to deliver policy objectives."

The Secretary of State contradicts himself in the space of two sentences. If this were a well-functioning market it would not require a CMA investigation. If competition tools were sufficient to overcome excess prices, then they would have worked years ago and will be insufficient now to tackle the gross over-charging of the majority of customers. I contend that the CMA has been hamstrung; and given a heavy steer not use Government regulation to resolve a clear market failure.

I strongly urge you to reconsider implementing a protected tariff for the majority of SVT customers, not just those using prepayment meters. Indeed, this is the measure that Martin Cave, CMA panel member argued for in his dissenting opinion.

This is a prime opportunity to tackle the unfairness with which a small number of companies are able to overcharge most customers for what is an essential part of daily life. I hope that in the final report, bolder steps will be taken than those demonstrated in the Provisional Decision.

Yours sincerely

Rt Hon Caroline Flint MP

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